IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5384 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

KANAIYALAL LILADHAR PANDYA

Appearance:

MR SAMIR DAVE for MR SP HASURKAR for Petitioner

MR HJ NANAVATI for Respondent No. 1

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/11/2000

ORAL JUDGEMENT

1. This matter was heard on the last date and it was kept on 13th October, 2000 for dictation of order but for want of time, it could not be dictated.

2. The counsel for the petitioner and the respondent

are further heard. By passing of time, in substance, the petition has now become infructuous. However, in case, it would not have become infructuous then I have my own reservation whether this Court would be in a position to maintain the order passed by Gujarat Affiliated Colleges Services Tribunal, Gujarat State, Ahmedabad. This matter pertains to where the respondent No.1, a Professor claims that his right to continue in the services till attaining the age of 62 years. It is a case of the respondent that the age of superannuation for Professor in the Colleges was 60 years but afterwards it has been increased to 62 years. The respondent's date of birth is 15th August, 1938 and he attained the age of 60 years on 14th August, 1998 but as per the Government Resolution in mid of session, the teacher is not ordered to retire. He continued upto 31st October, 1998, on which date, he was ordered to be retired. On 9th August, 1998, he filed an application before the Tribunal wherein claim has been made for his continuation in the services till he attains the age of 62 years. As usual, an application has been filed for grant of interim relief. The Tribunal, totally ignorant of the well settled principles of law by the Apex Court in series of decisions, has directed for grant of interim relief, which has been continued from time to time and under the impugned order, it was also made absolute. One of the settled principles is that in such matters, in case interim relief is not granted, it will not result in causing any irreparable injury to the litigant who is praying for the same, as on his success in the litigation, he can be compensated for this loss, here only salary. Be that as it may. The order of the Tribunal aforesaid has been stayed by this court and now the respondent No.1 has also attained the age of 62 years, so this petition is dismissed as having become infructuous and the Tribunal is directed to decide the application of the petitioner within a period of two months. In case ultimately, the petitioner succeeds in the application, the Tribunal is free to consider the claim of the petitioner for awarding interest on the salary for this period i.e. from the date on which stay has been granted by this Court till the date on which he attained the age of 62 years. Rule is discharged accordingly.

****

zgs/-